

03.08.2021.
Item No. 28.
Court No.13
ap

**W.P.A. No. 11291 of 2021
(Through Video Conference)**

**Rekha Gupta
Versus
The State of West Bengal & Ors.**

Mr. Dev Kumar Sharma.

..For the petitioner.

Mr. Amitesh Banerjee, Id. Sr. Standing Council,
Ms. Ipsita Banerjee.

...For the State.

Affidavit-of-service filed in Court today by the
Counsel for the petitioner be taken on record.

The writ petitioner is aggrieved by the fact that
despite a complaint of assault on her head with iron
rod by her husband, no FIR has been registered till
date.

Counsel for the State submits that there are two
cases registered against the petitioner's husband, the
first of which has resulted in Charge-sheet No.73 of
2020 dated 19th March, 2020 under Sections
498A/406 of the Indian Penal Code.

In so far as the complaint of assault by the iron
rod on the petitioner's head is concerned, Shibpur
Police Station has registered a case being Case No. 359
of 2020 dated 9th December, 2020 under Sections
498A/325/506 of the Indian Penal Code. A charge-
sheet No.39 dated 21st February, 2021 under the same

Sections has also been filed before the jurisdictional Magistrate.

Since the husband was absconding, warrant of arrest, proclamation and attachment was sought from the concerned Magistrate. However, on 23rd April, 2021, the accused husband of the petitioner surrendered and obtained bail.

Counsel for the petitioner submits that the charge-sheet could not have been filed without recording her statement.

This Court is unable to accept the same when a charge-sheet has already been filed on the complaint, there is a presumption that the petitioner's statement under Section 164 of the Code of Criminal Procedure has been recorded.

Be that as it may, if the petitioner is aggrieved by the charge-sheet, she may take out a suitable application inter alia in the nature of Narazi before the jurisdictional Magistrate.

The petitioner complains that she has not received copy of the charge-sheet. The petitioner and/or her counsel may collect copy of the charge-sheet from the Officer-in-charge, Shibpur Police Station in course of the week.

With the aforesaid directions, the instant writ petition shall stand disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order on usual undertakings.

(*Rajasekhar Mantha, J.*)